38. The level of access rates, the amount of universal service support in access rates, and the appropriate X-factor have all been subject to contentious proceedings that heretofore have not been resolved despite years devoted to their resolution. For many years, IXCs and consumer groups have argued that access rates are significantly above cost and contain monopoly profits, the amount of which was itself subject to serious debate.[47] Incumbent LECs, on the other hand, have contended that reducing access charges threatened universal service support. This dispute cannot be resolved with exactitude, as setting access charges is at best an imprecise process whose success can be measured only by using a zone of reasonableness. With adoption of the CALLS Proposal, we believe that we have achieved a reasonable and appropriate up front reduction to access rates that addresses the positions of both sides.

39. The 1996 Act stated that the Commission should create explicit universal service mechanisms that would be secure in a competitive environment.[48] The interstate access universal service support mechanism we create today to replace the implicit universal service support removed from access charges has been subject to heated debate as to the appropriateness of its size and distribution methodology. During the course of the proceeding, some parties have argued that the amount of implicit universal service support in access charges is as high as $3.9 billion, while others have argued that the figure is only $250 million.[49] As explained below, determining the amount of implicit universal service support is an imprecise exercise at best. Consequently, it is only today, more than four years after the passage of the 1996 Act, that we issue a decision on this matter.

40. Similarly, the size of the X-factor has been subject to debate ever since the first time it was set with the creation of price caps. More recently, the current X-factor of 6.5 percent, which was set in 1997,[50] is currently on remand with the Commission. By adopting the reasonable approach set forth in the CALLS Proposal, which treats the X-factor not as a productivity estimate but as a method to reduce rates to certain levels, we expect to end the debate over the appropriate size of the X-factor now and for the next five years for participating price cap LECs.

41. The rates proposed by CALLS are reasonable. We have compared LEC revenues over the five-year period under the modified CALLS Proposal with what their revenues would be under the status quo, and conclude that they are roughly the same.[51] Overall LEC revenues are

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[47] *See, e.g., Access Charge Reform Order*, 12 FCC Rcd at 16249-51.

[48] *See* 47 U.S.C. § 254.

[49] *See* Section IV.C.3.b *infra*.

[50] *See 1997 Price Cap Review Order.*

[51] *See* Appendix C, Graphs 1 and 2. These calculations assume that the X-factor remains at 6.5 percent, but that inflation remains relatively low, at 1.95%. If inflation is higher, the CALLS Proposal produces lower overall rates relative to the status quo. Our estimates are based on applying our current rules and the CALLS Proposal's proposed rules to publicly available data, so we are puzzled by MCI's insistence that CALLS should have released its own estimates. *See* MCI Supp. Comments at 3-5; *see also* New Jersey Div. Supp. Comments at 4-5; Ad Hoc Supp. Reply at 5-6.

roughly $700 million lower than they would have been for the first year of the plan, but gradually increase in the later years so that projected revenue is higher than the status quo at the end of the plan. We note, however, that these estimates make no adjustment to account for voluntary reductions participating LECs might make in response to the development of competition in the marketplace, something that is much more likely to occur in the later years of the plan, in part due to the reduction of implicit subsidies by the CALLS Proposal.[52]

42. We find that the CALLS Proposal provides a number of consumer benefits that are in the public interest. By eliminating the residential PICC, the CALLS Proposal provides immediate reductions to consumers' overall rates, even after taking the increase to the primary residential SLC into account. By having IXCs provide calling plans with no monthly minimum charges, CALLS also provides additional benefits to low-volume long-distance customers. In addition, by recovering a greater proportion of loop costs directly from the end user and by creating an explicit and portable interstate access universal service mechanism, the CALLS Proposal also promotes the development of greater facilities-based residential competition.

43. We reject the last-minute alternative proposed by ALTS and Time Warner.[53] Their proposal would not be as beneficial a plan as that submitted by CALLS because, among other considerations, the smaller annual reductions to per-minute rates would result in a delay to more economically efficient rates. We note that the ALTS and Time Warner plan contains several of the same elements as does CALLS. For example, it eliminates the residential and single-line business PICCs, and increases the primary residential and single-line business SLCs to $4.35 on July 1, 2000. Nevertheless, for the reasons discussed below, we find that their plan is not well developed. To do what is necessary to flesh out their plan, including seeking comment on it and resolving internal inconsistencies, would require many more months of proceedings, thereby resulting in significant delay in implementation.[54]

44. We reject the contention by ALTS and Time Warner that by adopting the CALLS Proposal we are abandoning the Commission's commitment to using competition to drive down access charges.[55] By adopting the CALLS Proposal, we require price cap LECs to make a larger rate reduction than they otherwise would have on July 1, 2000. For carriers that elect CALLS, however, we defer the rate prescription scheduled to take place next year that the Commission established as a "backstop" to the market-based approach in the event competition was slow to develop.[56] We thereby allow four additional years for competition to develop sufficiently to begin to control access rates.

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52 *See also* CALLS Supp. Reply at 39-41.

53 ALTS and Time Warner Supp. Comments, Exhibit.

54 The Original Proposal was, despite its shortcomings, exceptionally well developed. Nevertheless, it is only now being adopted, after 10 months and significant modification.

55 ALTS and Time Warner Supp. Comments at 8.

56 *Access Charge Reform Order*, 12 FCC Rcd at 16097.

45. In addition, we find that the ALTS/Time Warner plan is poorly defined. For example, ALTS and Time Warner fail to explain how a SLC cap of $4.35, together with a $300 million interstate access universal service mechanism, would be appropriate to ensure adequate recovery of interstate loop costs in rural and high cost areas. ALTS and Time Warner also fail to explain how SLCs could be deaveraged when the SLC caps are set at that level. The ALTS/Time Warner plan also lacks an overall rationale. For example, ALTS and Time Warner criticize the up front reductions in the CALLS Proposal as unjustified,[57] yet they propose an undefended reduction, albeit a smaller one, "as a compromise."[58] ALTS and Time Warner also criticize the X-factor targeting employed by CALLS,[59] even though they propose an unsupported targeting of the X-factor different from the status quo.[60] In addition, unlike the CALLS Proposal, ALTS and Time Warner have no support from parties other than competitive LECs.

46. We conclude that adopting the ALTS and Time Warner proposal would not serve the public interest. Although they object to the initial reduction in per-minute rates, at no point do they assert that the reductions proposed by CALLS will result in below-cost access rates. We believe that despite the criticisms by ALTS and Time Warner, the CALLS Proposal creates significant business opportunities for Time Warner and the members of ALTS. By reducing and removing the subsidies that currently keep the primary residential SLC rates below the level of loop costs currently allocated to interstate service, as accomplished through the CALLS Proposal, we are encouraging facilities-based carriers such as Time Warner and the members of ALTS to compete for residential subscribers.[61]

47. With one exception that we discuss below, we decline to make any significant modifications[62] to the CALLS Proposal as some parties advocate,[63] and instead agree with the CALLS signatories that we should assess the proposal as a whole. In so doing, we note that the Original Proposal, made by a group of price cap LECs and IXCs but without comment from consumer groups, did not address the interests of consumers as adequately as the Modified Proposal. In response to the various critiques of the Original Proposal, CALLS made several pro-consumer changes that resulted in a substantially more equitable proposal. These changes

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57 ALTS and Time Warner Supp. Comments at 3, 11-12.

58 ALTS and Time Warner Supp. Comments at 4, 16.

59 ALTS Supp. Comments at 8-10.

60 ALTS Supp. Comments at 4, 16.

61 *See* CALLS Supp. Reply at 43.

62 We do in fact make some minor and technical changes to the CALLS Proposal. *See* Section IV.B.2.c. *infra* (changing the inflation measurement used to calculate the price cap indices). *But see e.g.*, Letter from John T. Nakahata, Counsel to CALLS, to Magalie Roman Salas, Secretary, FCC, April 24, 2000 (asserting that CALLS considers this change in the CALLS Proposal to be a material one).

63 *See, e.g.*, Ad Hoc Supp. Comments at 3; Allegiance Supp. Comments at 4; Cincinnati Bell Supp. Comments at 1-2.

include lowering the primary residential and single-line business SLC caps from the Original Proposal, both at the start of the plan and throughout its term; proposing a cost review to examine the appropriateness of raising the SLC caps above $5.00; eliminating minimum usage charges for basic long distance service by CALLS long-distance signatories; and removing a significant amount of revenues from access charges altogether, rather than shifting those permitted revenues to the common line basket.

48. We acknowledge that CALLS signatories have made compromises, both among themselves and to accommodate other interests. Having two groups representing historically opposing positions, *i.e.*, LECs (sellers of access services) and IXCs (buyers), reach an agreement removes much of the rhetoric that has stood as an obstacle to comprehensive action. Thus, the CALLS Proposal allows us to move forward more quickly by removing certain issues from consideration that would have delayed reaching a comprehensive solution. The fact that the resolution of these issues was achieved through a joint proposal among a cross-section of LECs and IXCs provides us with some indication that the proposal is within a zone of reasonableness.[64] We believe the parties have negotiated with each other in good faith and fashioned a reasonable compromise that both addresses their competing interests and serves the broader public interest. We also believe that the proposal, particularly after taking its modifications into account, fairly balances the interests of all parties, including those who are not part of the coalition. We are supported in this belief by the support the plan has received from other interested parties, including certain consumer groups,[65] some state regulators,[66] and competitors.[67]

49. At the same time, we must exercise our own independent judgment to ensure that any proposal we adopt in this area -- even a proposal that reflects a substantial degree of consensus among historically adverse parties -- is reasonable and in the public interest. We have exercised that judgment here, and we find that CALLS falls easily within the range of reasonable solutions to the problems it addresses. CALLS is most appropriately judged as a single, cohesive proposal, because the underlying issues it addresses are themselves interrelated. We therefore focus our inquiry on the reasonableness of the proposal taken as a whole, although we also find that its essential constituent parts individually fall within the range of reasonableness. There is no one "right answer" to many of the disputes that the CALLS proposal resolves. There are instead ranges of reasonable solutions, and the ultimate question is whether CALLS is a sensible

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64 We note that courts allow for pragmatic adjustments in the rate setting context. *FPC v. National Gas Pipeline Co.*, 315 U.S. 575, 586 (1942). Indeed, in reviewing rate setting decisions, the courts focus on the "net effect," allowing that "[e]rrors to the detriment of one party may well be canceled out by countervailing errors or allowances in another part of the proceeding." *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 314 (1989).

65 *See* APT Supp. Comments at 8; Rainbow/PUSH Supp. Comments at 2; NHCA Supp. Reply at 1; United Seniors Supp. Reply at 1; Letter from Martin A. Corry, Director, Federal Affairs, AARP, to William Kennard, Chairman, FCC, April 13, 2000. *But see* Joint Consumer Commenters

66 *See* Mass. DTE Comments at 9; Maine Joint Commenters Supp. Reply at 2. *But see,* Maryland Commission Supp. Reply Comments at 4; Florida Commission Comments at 1.

67 *See* Qwest Supp. Comments at 3; CompTel Supp. Reply at 2 (generally supporting CALLS Proposal). *But see* ALTS Supp. Reply at 4; Joint Consumer Commenters at 2.

transitional plan for accommodating the Act's universal service goals with the development of fuller, more rational competition. Moreover, while we of course have the legal authority to make substantive changes to the CALLS Proposal and impose them on the industry, we generally decline to do so. Although we might ourselves, after further delay, independently devise a different set of reasonable solutions to the problems addressed by the current proposal, the preferable course is to adopt the proposal itself, because it is reasonable in its own right, because it is ready to be implemented, and because it already commands a commendable degree of industry consensus.

50. Although we find the CALLS proposal is reasonable for CALLS signatories and is likely to be reasonable for non-signatory price cap LECs, we recognize that it was developed with the idea that it would be voluntary for price cap LECs. At the same time, however, the benefits of the CALLS Proposal could not be fully realized if all price cap LECs did not participate. Because the CALLS Proposal is a cohesive proposal, failure to implement it fully would frustrate the consumer benefits we find appropriate for its adoption. Moreover, failure to implement CALLS completely will impede advancement toward the 1996 Act's competition and universal service goals.

51. Section 254(g) of the Act requires IXCs to average their rates.[68] Accordingly, AT&T and Sprint cannot honor their commitments to eliminate residential PICCs and single-line business PICCs for customers of participating price cap LECs without eliminating these charges for customers of all carriers. AT&T and Sprint committed to eliminate their PICC pass-through charges for residential and single-line business customers on the condition that they would no longer be assessed PICCs for those customers. If some price cap LECs continued under the status quo, they would continue to charge PICCs on residential and single-line business lines, and one would expect that IXCs would seek to recover these costs through a flat charge.

52. If IXCs assessed a PICC pass-through charge on all residential and single-line business customers to recover the PICCs assessed on them by non-participating price cap LECs, residential and single-line business customers of participating LECs would end up paying higher overall rates than would residential and single-line business customers of non-participating LECs. The primary residential and single-line business customers of non-participating LECs would have their SLCs capped at $3.50, and would have PICCs assessed on their lines to recover additional local loop costs, which would be averaged by IXCs among all customers. Customers of participating LECs would then pay a higher SLC, yet still be paying a PICC pass-through charge that reflects the IXCs' cost of paying PICCs to any non-participating price cap LECs. This would reduce some of the significant consumer benefits of the CALLS Proposal. It would also create a new subsidy running from customers of participating LECs to those of non-participating LECs, thereby frustrating the goal of removing implicit subsidies.

[68] 47 U.S.C. § 254(g) ("[R]ates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.")

53. In addition, AT&T's commitments are predicated on there being a $2.1 billion aggregate reduction to access charge usage rates.[69] Because each CALLS LEC signatory has only committed to a proportional share of this sum based on an assumption of full participation,[70] full participation by price cap LECs is necessary to reach the overall access charge usage rate reduction. Therefore, in the absence of full participation, neither AT&T nor Sprint[71] would be obligated to fulfill their commitments, including those commitments regarding elimination of minimum usage charges, the flow-through of access charge reductions to residential and business customers, and consumer education efforts.

54. We also note that for price cap LECs that would not participate in CALLS, the implicit universal service subsidies contained in those LECs' access charges would remain. We would thus be required to conduct a proceeding to determine the size of that implicit universal service support, thereby delaying the creation of an explicit and portable interstate access universal service support mechanism for those areas. Until we completed that proceeding, competitive LECs in those price cap LECs' service areas would be unable to receive interstate access universal service support.

55. Similarly, without full participation by price cap LECs, the averaging requirements imposed on IXCs under section 254(g) of the Act could place IXCs at a competitive disadvantage if Bell Operating Company (BOC) long-distance affiliates only offer service to their in-region customers as they enter the long distance market. A long-distance affiliate of a BOC participating in CALLS would be able to offer lower per-minute rates than would an IXC having to average its access charges across all regions, including those serving non-participating price cap LEC customers.[72] Non-participating LECs would receive a windfall from CALLS, because the IXCs' averaged rates, which would be significantly lower due to the effects of the CALLS Proposal, would stimulate demand for interstate access in the LECs' regions, even though those LECs would not have significantly reduced their in-region per-minute rates.

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69 *AT&T March 30 Letter* at 1.

70 Modified Proposal at § 3.2.4.

71 *Sprint February 25 Letter* at 1 ("Sprint will not impose a minimum usage charge ("MUC") on at least one basic rate plan for the duration of the CALLS plan, provided that if any other interexchange carrier that is now or hereafter a party to the CALLS plan reserves the right to impose a MUC on its basic rate plan prior to the termination of the CALLS plan, Sprint reserves the right to do so as well under similar terms and circumstances.").

72 We note that the national rate averaging requirement of section 254(g) already places nationwide IXCs at a competitive disadvantage because they must average rates for all areas, including regions served by rate-of-return LECs. Permitting large carriers such as U S West to maintain rates significantly above the CALLS target levels would exacerbate this competitive disadvantage.

56. Nevertheless, we recognize that not all price cap LECs could agree on all aspects of the CALLS Proposal.[73] CALLS members worked among themselves to develop the mechanisms under which price cap LECs contribute toward reducing switched access usage charges by $2.1 billion, as well as the rules that determine the size and distribution of the $650 million interstate access universal service support mechanism. These decisions necessarily pit each price cap LEC's interest against the interests of all other price cap LECs. Consequently, price cap LECs that did not agree to the CALLS Proposal might not receive the same benefits or carry the same burdens as the CALLS LEC signatories.

57. Accordingly, out of an abundance of caution, we provide an opportunity for price cap LECs to choose between two options for certain rate-level, as opposed to rate structure, components of the CALLS proposal. Specifically, price cap LECs may elect CALLS for the full five-year period. Alternatively, price cap LECs may elect to submit a cost study based on forward-looking economic cost that will be the basis for reinitializing rates to the appropriate level. Because a cost study proceeding necessarily requires data specific to the price cap LEC to be submitted and analyzed, we find it necessary to mandate the CALLS rate-level components on an interim basis, subject to true-up, in order to provide sufficient time to complete a cost study. A price cap LEC that elects the second option will be subject to the following rate-level components of the CALLS Proposal until we have completed the forward-looking economic cost review: the size of the up-front reduction; the size of the carrier's interstate access universal service support; the X-factor; and the switching target levels. Adopting these components on an interim basis will permit realization of the full consumer benefits of the CALLS proposal and preserve the $2.1 billion reduction in switched access usage charges for the first year.

58. At the same time, we adopt the rate structure components of the CALLS Proposal as mandatory for all price cap LECs, for the five-year period envisioned by the CALLS proposal. The rate structure components are the new SLC caps, elimination of the residential PICC, the multi-line business PICC caps, the creation of a separate basket for special access, elimination of the marketing basket and the recovery of the revenues it recovered as part of CMT revenues, recovery of universal service contributions directly from end users, SLC deaveraging, portability of the interstate access universal service mechanism, and increased Lifeline support to cover the new SLC caps. For the reasons discussed elsewhere in this order, the changes made in these components are reasonable and in the public interest and consistent with our policy of requiring, to the extent possible, that non-traffic sensitive costs be recovered through fixed rates or flat charges. In addition, these changes do not affect carriers' overall recovery of their costs and thus do not raise the same issues as the rate-level components.

59. For the rate level components, each price cap LEC will, at the holding-company level, choose between two options. The first alternative is to subscribe to the CALLS Proposal for its full five-year term. The second alternative is to submit a cost study based on forward-looking economic costs, resulting in the LEC's rates being reinitialized to the appropriate level

[73] *See* Letter from John Kure, Executive Director, Federal Regulatory, U S West, to Magalie Roman Salas, Secretary, FCC, April 28, 2000.

indicated by the study and then made subject to a price cap plan and X-factor that we would determine.

60. This cost-study proceeding is consistent with what we outlined in the *Access Charge Reform Order*.[74] In the *Access Charge Reform Order*, the Commission stated that its goal was for interstate access charges to reflect the forward-looking economic costs of providing interstate access services.[75] The Commission adopted a two-phased approach to reach that goal. It adopted a market-based approach that relied on competitive pressures to bring prices toward forward-looking economic cost, with incumbent LECs receiving additional pricing flexibility where competition has developed. The second phase provided, however, that the Commission would require forward-looking cost studies by no later than February 8, 2001 for access services that were not subject to competition and "eventually prescribe rates for those services at forward-looking economic cost levels."[76] For those carriers that accept the CALLS Proposal, we are extending for five years the period during which we will allow the market-based approach to bring interstate access prices toward forward-looking economic cost. Those carriers that reject the CALLS Proposal will operate under the framework the Commission set forth in the *Access Charge Reform Order* to address services that are not subject to substantial competition.[77]

61. Each price cap LEC will have 60 days from the release of this Order to make its election between the two options. This election will be binding for the five-year term of CALLS. Price cap LECs that elect to proceed with a cost study will be subject to the rules we adopt today until the completion of our cost study proceeding. We make this election binding because we believe the CALLS proposal, coupled with a true-up mechanism discussed below, will ensure reasonable rate levels for all price cap LECs, while ensuring that the Commission does not waste its limited resources in cost proceedings performed solely for the purpose of having LECs determine under which approach they would be better off.

62. For a price cap LEC electing the cost study option, we also adopt a true-up mechanism to be applied to such price cap LEC's rates. This will enable the LEC and its customers to be treated as it would have been, had we completed the cost study in time to avoid the need for imposing the CALLS Proposal for an interim period. Should any price cap LEC elect to participate in the cost-study proceeding, the Commission will consider the sufficiency of the interstate access universal service support mechanism, including both the size and distribution of support, concurrently with the industry-wide review of the increase to the primary residential SLC cap after July 2001, to avoid duplication of effort. We reject arguments offered by parties asking that we make the CALLS Proposal wholly mandatory.[78] CompTel's contention

[74] *Access Charge Reform Order*, 12 FCC Rcd at 16096-97.

[75] *Access Charge Reform Order*, 12 FCC Rcd at 16092-99.

[76] *Access Charge Reform Order*, 12 FCC Rcd at 16099.

[77] These carriers may still obtain pricing flexibility for those services that are subject to competition pursuant to the *Pricing Flexibility Order*.

[78] *See, e.g.*, CompTel Comments at 7-8; CPI Reply at 4, 9; Iowa Utilities Board Supp. Comments at 6.

that we have not previously implemented opt-in regulation for incumbent LECs is wrong.[79] Other than the BOCs and GTE, all incumbent LECs have had the choice of whether to elect rate-of-return or price cap regulation.[80] In addition, for several years all price cap LECs were permitted to elect the level of sharing and the X-factor to which they would be bound.

63. Below, we discuss each portion of the CALLS proposal in detail. In Section A., we address the impact of the CALLS proposal on services in the common line and marketing baskets. In Section B., we set forth the impact of the proposal on the local switching and trunking baskets, including the modifications to the X-factor and the creation of a separate basket for special access. In Section C., we discuss the universal service components of the CALLS proposal. In Section D., we conclude that the CALLS Proposal addresses the concerns raised in the *Low-Volume Long-Distance NOI.*

A. Common Line Charges

1. Background

64. In the *1983 Access Charge Order*, the Commission established a comprehensive mechanism for LECs to recover their costs of providing access service to complete interstate and foreign telecommunications.[81] This mechanism distinguished between traffic sensitive costs and non-traffic sensitive (NTS) costs incurred by a LEC to provide interstate access service. The Commission emphasized in the *1983 Access Charge Order* that its long range goal was for LECs to recover a large share of their NTS common line costs on a flat-rated basis from end users instead of from carriers.[82] The rules adopted in 1983 apportioned charges for common line costs between a monthly flat-rated SLC assessed on end users and a per-minute CCL charge assessed on the IXCs, which ultimately was recovered from end users through long distance charges.[83]

65. In the *Access Charge Reform Order*, in order to align the rate structure more closely with the manner in which costs are incurred, the Commission changed the manner in which price cap LECs recover their permitted common-line revenues.[84] Consistent with the goal

[79] CompTel Comments at 8.

[80] *LEC Price Cap Order*, 5 FCC Rcd at 6787.

[81] *1983 Access Charge Order*, 93 F.C.C.2d at 241. Although we had not moved to a price cap regulatory regime at that time, LECs who later became price cap LECs were subject to the access charge system.

[82] *1983 Access Charge Order*, 93 F.C.C.2d at 264-65. The Commission found that a subscriber who does not use the subscriber line to place or receive interstate calls imposes the same NTS costs as a subscriber who does use the line. Thus, simply by requesting telephone service, the subscriber causes local loop costs whether she uses the service for intrastate or interstate calls. *1983 Access Charge Order*, 93 F.C.C.2d at 278.

[83] Thus, LEC common line revenues = end-user SLC "plus" (CCL charge "times" usage), when access charges were first adopted.

[84] *Access Charge Reform Order*, 12 FCC Rcd at 16007-33. Incumbent LECs that are subject to rate of return regulation remain under the original 1983 common line rate structure rules.

enunciated in the *1983 Access Charge Order*, because the costs of using the price cap LEC's common line (or "local loop") do not increase with usage, the Commission decided that these costs should be recoverable entirely through flat, non-traffic-sensitive fees.[85] Out of an abundance of caution for affordability and universal service concerns at that time, however, the Commission did not raise the SLC cap for primary residential and single-line business lines above the $3.50 level in effect at the time to permit the full recovery of common line revenues.[86] Rather, to the extent that common line revenues are not recovered through the end-user's SLC, the Commission permitted LECs to recover these revenues through the PICC, a flat, per-line charge assessed on the IXC to whom the access line is presubscribed.[87]

66. Affordability concerns were not as significant for non-primary lines and multi-line business customers.[88] As a result, the Commission permitted increases in their SLC caps from $3.50 to $5.00 plus future increases for non-primary lines, and from $6.00 to $9.00 plus increases for inflation for multi-line business customers to permit recovery of the price cap LECs' average per-line common line revenues.[89] The Commission also established flat-rated PICCs on non-primary residential and multi-line businesses to recover common line revenues that cannot be recovered from residential and single-line business customers due to the caps on SLCs and primary residential PICCs.[90]

67. The PICC was designed to be phased in over a several year period. The PICC for primary residential and single-line business lines was capped at $0.53 in the first year with annual adjustments thereafter for inflation plus $0.50 until the sum of the SLC plus the PICC equals the price cap LEC's permitted common line revenues per line. Under current rules, the caps on non-primary and multi-line business PICCs also increase over time. As the primary residential and single-line business PICCs increase, however, the resulting increase in recovery of common line costs through flat charges on primary residential and single-line business lines will eliminate the subsidization of subscribers' rates for those lines by non-primary residential and multi-line business lines.[91] At this point, non-primary residential and multi-line business lines will no longer be assessed PICCs. Some price cap LECs already have reached this point; others would not reach this point for a number of years.

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85 *Access Charge Reform Order*, 12 FCC Rcd at 16004.

86 *Access Charge Reform Order*, 12 FCC Rcd at 16010-11.

87 47 C.F.R. § 69.153; *Access Charge Reform Order*, 12 FCC Rcd at 16019-20. Thus, after access reform, price cap LEC common line revenues = end-user SLC "plus" IXC PICC "plus" (CCL charge "times" usage).

88 *Access Charge Reform Order*, 12 FCC Rcd at 16005.

89 *Access Charge Reform Order*, 12 FCC Rcd at 16005.

90 *Access Charge Reform Order*, 12 FCC Rcd at 16022.

91 *Access Charge Reform Order*, 12 FCC Rcd at 15999-00, 16005.

68. To the extent that the caps on SLCs and PICCs do not allow recovery through flat charges of all common line revenues, LECs are still permitted to impose a per-minute CCL charge assessed on originating minutes.[92] As the PICC caps for non-primary residential and multi-line business lines increase, and as flat-rated revenues received from primary residential and single-line businesses increase, the per-minute CCL charge will be eliminated. At present, among the price cap LECs, only BellSouth, Citizens, and certain study areas of GTE, Frontier, and Sprint continue to collect CCL charges.[93]

69. In the Further Notice of Proposed Rulemaking adopted in August, 1999, the Commission sought comment on whether to permit price cap LECs to geographically deaverage common line access and traffic sensitive elements without a competitive showing and whether to condition such authority on certain regulatory developments.[94] The Commission also sought comment on whether it should grant pricing flexibility for switched access and common line services.[95] That proceeding remains pending.

2. CALLS Proposal

70. The CALLS signatories propose reforming and simplifying common line charges by combining the SLC, PICC and CCL charges into a single end-user charge that can be deaveraged under limited circumstances. Under the CALLS Proposal, the PICC for residential and single-line businesses would be eliminated beginning July 1, 2000.[96] The SLC for primary residential and single-line business lines would be capped at $4.35 upon implementation of the proposal beginning July 1, 2000, $5.00 as of July 1, 2001, $6.00 as of July 1, 2002, and $6.50 as of July 1, 2003.[97] The proposal also calls for the Commission to initiate a proceeding after the SLC cap reaches $5.00 to examine whether increases to the SLC cap for residential and single-line businesses above $5.00 are appropriate, and reflect the costs in the UNE zone or zones where they would apply.[98] The maximum primary residential and single-line business SLC in any zone would be the average price cap common line, marketing and transport interconnection charge revenue (Price Cap CMT Revenue) per line for the highest cost unbundled network

92 *Access Charge Reform Order*, 12 FCC Rcd at 16005.

93 The CCL charge already has been eliminated for Ameritech, Bell Atlantic, PacTel, Southwestern Bell Telephone, U S WEST, Aliant, SNET and Cincinnati Bell.

94 *Pricing Flexibility Order*, 14 FCC Rcd at 14320-24.

95 *Pricing Flexibility Order*, 14 FCC Rcd at 14324-26.

96 Modified Proposal at § 2.1.2.1.

97 Modified Proposal at § 2.1.2.2.1. *See* Appendix C, Chart 1 for a comparison of the SLC and PICC caps under our current rules and as proposed by CALLS.

98 Although the CALLS Proposal describes this cost review proceeding to be limited to primary residential and single-line business lines, CALLS subsequently clarified its submission to include all residential lines as part of the proposed cost review proceeding. *See Wallman March 30 Letter* at 2.

element (UNE) zone[99] in a study area up to the nominal cap.[100] Price Cap CMT Revenue is defined as the total revenue a filing entity is permitted to receive for SLCs, PICCs and CCL charges.[101] Price Cap CMT Revenue also includes marketing expenses pursuant to section 69.156(a) of the Commission's current rules, and residual interconnection charge revenues collected through PICCs.[102]

71. In addition to eliminating the PICC for non-primary residential lines, the CALLS Proposal would cap the maximum SLC for these lines at the lower of $7.00 or the greater of the current rate or average Price Cap CMT Revenue per line for the highest average revenue per line UNE zone in a study area.[103] Once charges for primary and non-primary residential lines are equal within a zone or study area, a price cap LEC could eliminate the distinction between primary and non-primary lines within that zone or study area.[104] Although the distinction between primary and non-primary residential lines could be eliminated in most circumstances under the proposal, it would remain for those subscribers where the average Price Cap CMT Revenue exceeds the maximum primary residential SLC cap.

72. For multi-line business customers, the SLC and PICC would not be combined.[105] The multi-line business PICC would continue to be charged to the IXCs with a cap of $4.31 per line.[106] It would be reduced as the residential SLCs increase until it is phased out.[107] The SLC would be the lesser of $9.20 or the greater of (1) the rate as of December 31, 1999, less certain amounts of SLC reductions or (2) Average Price Cap CMT Revenue Per Line where SLCs have not been deaveraged.[108] Multi-line business SLCs would be frozen until the carrier's multi-line

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99 A UNE Zone is a state created zone pursuant to Section 51.507(f) of the Commission rules, which requires states to establish different rates for unbundled network elements in at least three defined geographic areas within the state to reflect geographic cost differences. 47 C.F.R. § 51.507(f).

100 Modified Proposal at §§ 2.1.1.1, 2.1.2.2.1.

101 Under the CALLS Proposal, the price cap LEC common line revenues for residential and single-line businesses = end-user SLC "plus" (CCL charge "times" usage).

102 Modified Proposal at § 2.1.1.1.

103 Modified Proposal at §§ 2.1.3.1, 2.1.3.2.1.

104 Modified Proposal at § 2.1.3.2:3.

105 Under the CALLS Proposal, the price cap LEC common line revenues for multi-line businesses = end-user SLC "plus" IXC PICC "plus" (CCL charge "times" usage).

106 Modified Proposal at § 2.1.4.1.

107 Modified Proposal at §§ 2.1.4.1, 2.1.6.

108 Modified Proposal at § 2.1.4.2.1.

business PICC and CCL charges are eliminated – except where a carrier chooses to reduce the SLC through voluntary reductions.[109]

73. SLCs could be deaveraged subject to certain limitations.[110] Price cap LECs could only geographically deaverage their SLCs after a state commission establishes deaveraged UNE rates by zone and PICCs and CCL charges are eliminated. Deaveraged SLCs by customer class within each UNE zone also could not generate more revenue than that generated by geographically averaged SLCs.[111] A price cap LEC, however, could take a voluntary reduction at any time. Price cap LECs may have up to four SLC zones, absent Commission review and approval, and price cap LECs can determine which zones to consolidate if they have more than four UNE zones.[112] A carrier need not eliminate CCL charges and PICCs prior to deaveraging by voluntary reductions. A price cap LEC also could not reduce multi-line business SLCs below non-primary residential SLCs or non-primary residential SLCs below primary residential and single-line business SLCs in a given UNE pricing zone.[113] SLCs of a given customer class, such as multi-line business, could not have a lower price in higher cost zones than any line in a lower cost zone.[114] Finally, except with respect to voluntary reductions, the proposal would establish a minimum charge within the lowest cost zone, which allows consumers outside the lowest cost zone to share the benefits of SLC deaveraging.[115]

74. Each CALLS LEC signatory also commits to reduce "switched access usage charges" by its proportional share of $2.1 billion on July 1, 2000.[116] Most LECs would achieve these reductions solely through rate decreases. Under the proposal, however, two mutually exclusive alternatives are proposed to permit certain carriers to move some of these permitted revenues to the common line basket.[117]

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[109] Modified Proposal at § 2.1.4.2.1. "Voluntary Reduction" is one in which the price cap LEC reduces prices other than through offset. Modified Proposal at § 2.1.5.6.3.

[110] Modified Proposal at § 2.1.5.

[111] Modified Proposal at §§ 2.1.5.1, 2.1.5.5, 2.1.5.6.1.

[112] Modified Proposal at §§ 2.1.5.2, 2.1.5.6.1.

[113] Modified Proposal at § 2.1.5.3.

[114] Modified Proposal at § 2.1.5.4.

[115] Modified Proposal at § 2.1.5.6.2.

[116] Modified Proposal at § 3.2.4.

[117] Modified Proposal at §§ 3.2.4.1, 3.2.4.2; *see* Section IV. B. *infra* for discussion of this portion of the CALLS Proposal.

3. Discussion

75. We adopt the common line rate structure aspects of the CALLS Proposal because it is pro-competitive and provides immediate significant consumer benefits through reduced consumer rates. Furthermore, consistent with the 1996 Act, including section 254(k), it simplifies the current rate structure and long distance bills, reduces consumer confusion, and furthers the Commission's efforts over the past two decades to eliminate per-minute recovery of common line costs.[118] Although support for the CALLS Proposal was not unanimous, the proposal is a major step forward from the Commission's current access charge regime, and preferable in moving access charges to cost-based levels than the current process.[119]

a. Residential and Single Line Business SLCs and PICCs

76. In this Order, we eliminate residential and single-line business PICCs. We also increase the related SLC caps as proposed and modify our rules accordingly. As explained below, we find that this action is within the Commission's statutory authority to order proper recovery of the portion of common line costs that has been allocated to the interstate jurisdiction through charges imposed on telephone subscribers, and that doing so does not violate the Communications Act of 1934, as amended.[120]

77. Our actions today are in furtherance of our goal of having price cap LECs recover a large share of their NTS common line costs from end users who cause them instead of carriers, and to recover these costs on a flat-rated, rather than a usage-sensitive, basis.[121] As explained below, we find that modifying these charges in the proposed manner will simplify the current rate structure and consequently consumers' bills by eliminating some of the complexity involved with these charges and the billing practices that gave rise to the *Truth-in-Billing Order* and *Low-Volume Long-Distance Users NOI*.[122]

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118 47 U.S.C. § 254(k).

119 Cable & Wireless Comments at 1-3; CompTel Comments at 2, 10; Western Wireless Reply at 2; Cincinnati Bell Comments at 2; Cincinnati Bell Supp. Comments at 6; Global Crossing Supp. Comments at 1; Qwest Supp. Comments at 2-3.

120 47 U.S.C. §§ 4(i), 201-205; *see National Association of Regulatory Utility Commissioners v. Federal Communications Commission*, 737 F.2d 1095, 1114 (D.C. Cir. 1984) (*NARUC v. FCC*) (Commission may properly order recovery, through charges imposed on telephone subscribers, of the portion of loop costs placed in the interstate jurisdiction); *see also Smith v. Illinois Bell*, 282 U.S. at 148-49 (portion of the costs of local subscriber plant relating to interstate services may be recovered only under the authority of a body with interstate regulatory powers).

121 *See 1983 Access Charge Order*, 93 F.C.C.2d at 264-65, 278; *see also Access Charge Reform Order*, 12 FCC Rcd at 16007.

122 Truth-in-Billing and Billing Format, CC Docket No. 98-170, First Report and Order, 14 FCC Rcd 7492 (1999) (*Truth-in-Billing Order*); *Low-Volume Long-Distance Users NOI*; *see also* CALLS Comments at 9.

78. By eliminating the residential and single-line business PICCs, the CALLS Proposal establishes a straightforward, economically rational pricing structure which enables consumers to make a choice among competing providers through head-to-head comparisons and better promotes competition by sending potential entrants economically correct entry incentives.[123] Furthermore, because of the PICC billing practices of many IXCs, the new SLC caps ultimately will result in a further reduction of the overall amount many consumers currently pay for their individual SLCs and PICCs. Most IXCs currently recover PICCs from their customers through a blended PICC pass-through charge[124] on a per-account basis. This practice results in consumers with only one line paying more than they otherwise would had the LECs simply passed onto them directly the $1.04 worth of permitted revenues that the LEC recovers through the single-line PICC.[125] We estimate that IXCs are recovering additional amounts per account in "transaction costs" to recover their Lifeline costs, universal service contributions and bad debt associated with non-paying subscribers. Specifically, while we estimate that the average IXC blended PICC pass-through rate absent any additional amounts recovered by IXCs currently is approximately $1.23,[126] AT&T, MCI WorldCom and Sprint currently charge their residential customers $1.51, $1.46 and $1.50, respectively, as a blended PICC pass-through charge on a per-account basis. Eliminating the PICC, therefore, will make common line billing more efficient and more closely aligned with costs.[127]

79. Under the CALLS Proposal, the primary residential and single-line business SLC cap will be less than the combined SLC and PICC would be beginning July 1, 2000 under our existing rules. Under our existing rules, the primary residential and single-line business SLC currently is capped at $3.50 per line. The primary residential and single-line business PICC cap currently is $1.04 per line, and it is scheduled to increase on July 1, 2000 by $0.50 per line, plus an amount for inflation.[128] The total amount of the SLC and PICC caps beginning July 1, 2000 under existing rules therefore, would be approximately $5.06. Under the CALLS Proposal, the

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123 *See* CALLS Comments at 9-10.

124 The "blended PICC pass-through charge" is the flat, averaged, monthly IXC charge to end users designed to recover the PICC that the long-distance carriers were paying regulated local carriers for primary and secondary lines.

125 Indeed, under our existing rules, we have permitted LECs to bill the PICC directly to end users who do not presubscribe to an IXC. The PICC charged in these situations has generally been less than those charged by IXCs. *See Access Charge Reform Order*, 12 FCC Rcd at 15999; *see also* American Petroleum Comments at 4.

126 This estimate is based upon a weighted average of the primary residential PICC and the non-primary residential PICC as of January 1, 2000. This figure is estimated to increase under our current rules to $1.46 on July 1, 2000.

127 This assumes that long distance carriers eliminate PICC pass-through charges for residential customers, consistent with the commitment letters from AT&T and Sprint. *See AT&T March 30 Letter* at 2; *Sprint February 25 Letter* at 1.

128 The inflation rate adjustment would result in an additional increase of approximately 2.8 per cent based upon the inflation rate during the time period specified under the Commission rules. *See* 47 C.F.R. § 69.152(k)(2).

primary residential and single-line business SLC is capped at $4.35 per line beginning July 1, 2000. Consequently, most subscribers with only one line could save more than $0.70 per line under the CALLS Proposal compared to amounts they otherwise might have paid had these caps gone into effect beginning July 1, 2000. This estimate does not reflect the additional savings that result from the elimination of the blended PICC pass-through. Given that the new SLC cap will be less than the SLC and PICC caps would be under our current rules, we have a sufficient basis to find that the rates charged primary residential and single-line business customers will not be excessive and therefore unreasonable. Furthermore, because per-line CMT revenues are below the proposed caps in some areas, the average primary residential and single-line business SLC will not be as high as the cap particularly if the caps are raised in 2002 and 2003. We estimate the average primary residential SLC will be $4.93 in July 2001, $5.63 in July 2002, $5.82 in July 2003, and $5.83 after full implementation and transition of the proposal in July 2004 if the caps are fully implemented not counting voluntary reductions due to competition or any modifications to the proposed caps which might occur as a result of the cost review proceeding prior to the SLC increasing to $5.00.[129] It is difficult to compare these rates with the estimated primary residential SLC and PICC rates in 2004 under our current rules because of variables beyond our control. For example, the SLC under the CALLS Proposal's proposed rules is largely unaffected by inflation, whereas the projected SLCs and PICCs under our current rules would vary widely depending on what happens with inflation over the time period. In addition, further into the future, it is more difficult to estimate what IXCs would charge as a PICC pass-through to end users, and what the X-Factor would be.

80. Similarly, the SLC cap for non-primary residential lines will be lower than the SLC cap that would otherwise apply beginning July 1, 2000. The non-primary residential SLC cap currently is $6.07 per line and is scheduled under our current rules to increase on July 1, 2000 by $1.00 per line, plus an amount for inflation. Additional increases to this SLC cap of $1.00 per line plus an amount for inflation also are scheduled in subsequent years.[130] Under the CALLS Proposal, the non-primary residential SLC cap will be $7.00 beginning July 1, 2000, and remain unchanged for the five-year term of the proposal.[131] Because the actual charges assessed on many non-primary residential lines will be below the SLC cap under either approach, these subscribers will not see additional benefits. However, the remaining subscribers will

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[129] Our estimate is based upon publicly available data filed by the price cap LECs with their tariffs and the CALLS Proposal's projections of the sum of the primary line SLC (charged to end users) and the primary line PICC charge (charged to carriers) over the five year term of the proposal. In addition, GTE estimates that the primary residential SLC at the end of the plan will be approximately $5.80 which is only $0.30 more than the combined flat-rate amount that consumers could expect to pay for the SLC under existing rules beginning July 1, 2000, plus the IXC blended PICC pass-through charge IXCs could be expected to charge at that time. GTE Supp. Reply at 24.

[130] 47 U.S.C. § 69.152(e)(2)(ii).

[131] Modified Proposal at § 2.1.3.2.1.

immediately benefit by saving approximately $0.24, and on average will enjoy considerable savings in subsequent years.[132]

81. We find that this rate restructuring and rate decrease is in the public interest because it simplifies the current rate structure, moves towards cost-based rates, reduces consumers' overall rates, and simplifies long distance bills, thereby resulting in less consumer confusion. Similarly, simplifying the current rate structure benefits price cap LECs and IXCs by eliminating some of the complexities involved in the administration of current Commission rules and providing greater opportunities for pricing flexibility. These are all goals we have sought to achieve through our access charge reform, truth-in-billing and low-volume long distance user proceedings.[133]

82. We recognize that although consumers will experience considerable immediate savings, they also will see an additional line item charge on their bill when price cap LECs begin recovering Universal Service Fund contributions through an end-user charge. This charge could have been assessed regardless of the CALLS Proposal as a result of the Fifth Circuit's decision in *Texas Office of Public Utility Counsel v. FCC*.[134] Although the removal of the implicit subsidies from access charges to an explicit universal service support mechanism will be part of this line item charge, the increase attributed to interstate access universal service support mechanism should be offset by the decreases in other rates and charges resulting from the implementation of the CALLS Proposal.

83. As set forth in the CALLS Proposal, we shall review any increases to residential and single-line business SLC caps above $5.00 to verify that any such increases are appropriate and reflect higher costs where they are to be applied.[135] We will initiate and complete a cost review proceeding prior to any scheduled increases above this cap taking effect to determine the appropriate SLC cap. For this proceeding, the price cap LECs have agreed to provide, and we

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[132] We estimate that the non-primary residential SLC cap on July 1, 2000 under current Commission rules will be approximately $7.24 based upon a GDP-PI of 2.8% for the 18 month period ending March 31, 2000. Because the PICC pass-through charge is currently assessed by IXCs on a per-account basis, most consumers do not pay an additional PICC for non-primary lines. For this reason, we do not take the elimination of the non-primary PICC into consideration when considering the difference between the status quo and the CALLS Proposal.

[133] *See 1999 Price Cap FNPRM; Low-Volume Long-Distance Users NOI; Truth-in-Billing Order.*

[134] *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (affirming in part the Commission's decisions regarding implementation of the high-cost universal service support system, and reversed in part the Commission's decision that incumbent LECs could recover their universal service contributions from access charges). *See* Section IV. C. *infra* for a discussion of the interstate access universal service support mechanism portion of the CALLS Proposal.

[135] We note that in other proceedings, we are considering allowing price cap LECs to adjust their depreciation rates to amortize the difference between their regulatory books and financial books through a five-year above-the-line amortization. *See* 1998 Biennial Review – Review of Depreciation Requirements for Incumbent Local Exchange Carriers, CC Docket 98-137, Further Notice of Proposed Rulemaking, FCC 00-119 (rel. Apr. 3, 2000) (*Depreciation Relief NPRM*). We emphasize here that any decision to permit above-the-line amortization in that docket will have no affect on the Commission's cost proceeding.

will examine, forward-looking cost information associated with the provision of retail voice grade access to the public switched telephone network. We will address in that proceeding whether an increase in the SLC cap above $5.00 is warranted and, if not, whether a decrease in common line charges is warranted.[136]

84. We disagree with CALLS opponents who argue that this cost study should occur prior to the adoption of the proposal. This proposal is good for all end users because it reduces the overall rates paid by them. Initiating and completing a cost study would take a considerable amount of time, which would delay the immediate savings end users would realize from the implementation of the proposal on July 1, 2000.[137] Scheduling the cost study prior to the SLC cap increasing above $5.00 in July 2002, will enable end users to reap the immediate benefits of this proposal without the delay that would otherwise result from conducting the study beforehand. We further disagree with CALLS opponents who want the Commission today to specifically define the scope of the cost review study as well as the specific information to be examined in it. We believe that these issues are more appropriately addressed when we initiate the cost study.

85. We are not persuaded by arguments that increasing the SLC cap would violate the principle set forth in section 254(b) that consumers in all regions of the nation should have affordable access to telecommunications and information services at rates that are reasonably comparable to those services provided in urban areas.[138] The SLC cap was set over a decade ago and was determined to be generally affordable.[139] It has never been adjusted for inflation. Our rate restructuring today will result in lower overall charges than consumers experience with the current SLC and PICC, and a more efficient recovery of common line revenues through flat charges.[140] Furthermore, the data indicate that if the SLC cap for primary residential lines had been adjusted annually for inflation since it became effective in 1984, by July 2000, the $3.50

[136] *See Wallman March 30 Letter* at 1.

[137] Wyoming Commission Supp. Comments at 3-4; NASUCA Supp. Comments at 5, 20; New Jersey Div. Supp. Comments at 5; Joint Consumer Commenters Supp. Comments at 15-18.

[138] The universal service policies of 47 U.S.C. § 254(b), among others, provide that

> Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

47 U.S.C. § 254(b)(3).

[139] *See Access Charge Reform Order*, 12 FCC Rcd at 16008-09.

[140] Carrier common line charges would have decreased more rapidly than they have to date had the SLC caps been adjusted over time for inflation. This would have resulted in a more efficient recovery of non-traffic sensitive per-line common line costs through flat charges than what has occurred to date.

primary residential and single-line business SLC cap that was in place in 1989 and retained in the *Access Charge Reform Order* would have increased to $4.94 per line.[141] Thus, for residential customers, the primary residential SLC cap we adopt today is more affordable now than what it otherwise would have been had the $3.50 cap we previously deemed affordable been adjusted for inflation annually.

86. Increasing the SLC cap and eliminating the PICC as proposed will, in most areas, enable the full recovery of common line revenues for residential and single-line business lines through a single charge. Although, in the past, the Commission was reluctant to increase the SLC cap, the CALLS Proposal mitigates our reluctance.[142] Indeed, although we established the PICC as a charge that LECs assess IXCs instead of an end-user charge in order to minimize any impact on end users potentially resulting from a higher SLC, the reality in the marketplace is that IXCs have marked-up and passed-through the PICC to end users, thereby imposing higher flat charges for the majority of residential customers than would have occurred had we increased the SLC cap by the amount of the PICC caps. Even an end user who does not presubscribe to an IXC, and who pays the PICC directly to the LEC, could have been paying more in SLC and PICC on July 1, 2000, than the proposed SLC in the CALLS Proposal. Furthermore, subscribership has not been negatively impacted by these charges. Since the introduction of these charges, subscribership rates have remained relatively stable.[143] We are unpersuaded by the arguments therefore, that revising the rate structure as proposed will negatively impact subscribership.[144] Thus, in light of all of the benefits associated with the proposed restructuring of common line billing, such as the savings shown above, reductions in switched access usage rates and the interstate access universal service support mechanism of the CALLS Proposal, our prior concerns about whether increasing the SLC cap above $3.50 would render telephone service unaffordable are sufficiently mitigated to allow an increase in the SLC.

87. We acknowledge that states are concerned about the impact the CALLS Proposal may have on intrastate access charges, due to the fact that many states require that intrastate access fees mirror interstate access charges.[145] We agree with the Joint Board in the *Second Recommended Decision*, that "[t]he Commission's efforts to remove implicit universal service support from interstate access charges will not affect intrastate rates directly.[146]" We believe that

[141] *See Access Charge Reform Order*, 12 FCC Rcd at 16015-16. As in our *Access Charge Reform Order*, adjustments for inflation are based upon the Consumer Price Index (CPI) rather than Gross Domestic Product Price Index (GDP-PI), for comparison purposes because consumer affordability issues relate more to the CPI than to the GDP-PI.

[142] *See Access Charge Reform Order*, 12 FCC Rcd at 16010-11.

[143] *See* Telephone Subscribership in the United States, FCC Common Carrier Bureau, Industry Analysis Division (released January 2000).

[144] Joint Board Supp. Comments at 12.

[145] Joint Board Supp. Comments at 11.

[146] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Second Recommended Decision, 13 FCC Rcd 24744, 24755 (1998) (*Second Recommended Decision)*.

the states' concern over an indirect consequence of our action today is outweighed by our efforts, consistent with the 1996 Act, to remove implicit supports from access charges. For this reason, and because the 1996 Act directs that states should take action to preserve and advance universal service,[147] we leave it to the individual states to adjust their rates as they deem necessary in response to this Order.

88. In addition, the CALLS Proposal will provide rate benefits for rural customers including those not served by price cap LECs.[148] Most IXCs currently assess a flat-rated charge to recover the PICC on all of their subscribers, including those subscribers served by rate-of-return LECs. By eliminating the PICC, we eliminate these charges from the bills of these subscribers as well. This benefit is in addition to the savings they otherwise will experience from the reductions in long distance charges resulting from the pass through by the long distance signatories of the proposed lower access charges.[149] Because long distance providers must offer their geographically-averaged rates to all of their customers, including those served by rate-of-return carriers,[150] rural customers also will benefit from reductions in per-minute rates. We also anticipate addressing access reform and universal service reform for rural carriers in the near future.[151]

89. Some of the proposal's critics suggest that the more appropriate competitive route to access reform is to eliminate the SLC rather than the PICC.[152] These parties believe that, because the long distance market is currently more competitive than the local exchange market, these charges are more likely to be competed away if assessed on IXCs. We disagree with this proposition. Because PICCs are an external cost to the IXCs that they cannot reduce by managing it better or being more efficient, PICCs are unlikely to be competed away.[153] Indeed, we are now into the third year of its introduction, and there is no sign that the PICC is being competed away. Rather, we believe that one of the major benefits of recovering common line costs through the SLC alone is to encourage efficient competitive entry, particularly in providing

[147] 47 U.S.C. § 254(f); Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket 96-61, Report and Order, 11 FCC Rcd 9564 (1996).

[148] NADO Reply at 5.

[149] *See AT&T March 30 Letter* at 2; *Sprint February 25 Letter* at 2.

[150] 47 U.S.C. § 254(g).

[151] The Rural Task Force is scheduled to make recommendations to the Joint Board in early Fall 2000. *See also* Letter from David B. Cohen, Vice President – Small Company Affairs, United States Telecom Association, to Magalie Roman Salas, Secretary, FCC, March 17, 2000, CC Docket 98-77 (submitting Multi-Association Group Plan for Rate-of-Return Regulated Services).

[152] New Jersey Div. Comments at 11; NASUCA Comments at 33; New Jersey Div. Supp. Comments at 7-8; NASUCA Supp. Comments at 8-9, 17-18.

[153] GTE Supp. Reply Attachment B at 2.

competing alternatives for loop service.[154] The only way an IXC can reduce its PICC charges is by discouraging presubscription by customers that it would prefer not to serve, such as those who make few long distance calls. This type of behavior could raise issues regarding unjust, unreasonable and discriminatory practices under sections 201[155] and 202[156] of the 1996 Act. This is not a result that we would like to encourage. If common line costs are recovered in the SLC, a LEC can reduce its costs through efficiency gains and will have the incentive to avoid costs and reduce prices as it faces increased competition from competing local exchange carriers.[157] Further, we find that the proposed cost recovery structure will be more apparent to the end user, whereas PICCs currently are at least partially buffered against direct comparison because of the manner in which they are processed from the LEC through the IXC to the end user. Proceeding in this manner will provide greater economic incentives to stimulate alternative sources for the loop through facilities-based competition, and thus subject loop prices to competitive pressure.

90. Opponents also argue that the CALLS Proposal violates section 254(k) of the 1996 Act[158] for two reasons: (1) it fails to recover costs from all services that use the loop and permits the uncompensated use of the loop by IXCs; and (2) it causes services included in the

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[154] *See* CALLS Reply at 29.

[155] 47 USC § 201(b) states

> All charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful.

47 U.S.C. § 201(b).

[156] 47 USC § 202(a) states

> It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of person, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.

47 U.S.C. § 202(a).

[157] *See* CALLS Supp. Reply at 17-18.

[158] 47 U.S.C. § 254(k) states

> A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocations rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

47 U.S.C. § 254(k).

definition of universal service to bear more than a reasonable share of the joint and common costs of facilities used to provide those services.[159]

91. We find that section 254(k) is not implicated by our action today. Section 254(k) is directed at the allocation of costs between competitive and non-competitive services, both regulated and non-regulated, and prohibits subsidization of competitive services by non-competitive services.[160] The SLC is a method of recovering loop costs; not an allocation of those costs between supported and unsupported services.[161] Contrary to the opponents' arguments, nothing in section 254(k) precludes the Commission from permitting recovery of common line charges properly apportioned to interstate access from subscribers on a flat-rated basis. Under current rules, no PICC or CCL charges are paid by IXCs with respect to non-primary residential and multi-line business lines after the phase-in specified in the *Access Charge Reform Order* is completed. Similarly, for primary residential lines that are not presubscribed to an IXC, there is no common line recovery from IXCs in those places where the CCL charge has been phased out.

92. Moreover, section 254(k) addresses the concern that price cap LECs may attempt to gain an unfair market advantage in competitive markets by allocating to their less competitive services, for which subscribers have no available alternative, an excessive portion of the costs incurred by their competitive operations.[162] Whether a LEC allocates all of its interstate loop costs to the end user or to the IXC, the LEC's competitive position as compared to other suppliers of local exchange facilities remains the same. Section 254(k) was not designed to regulate the apportionment of loop costs between end users and IXCs because this allocation does not involve improperly shifting costs from a competitive to non-competitive service.[163]

93. Consequently, we agree with the CALLS proponents that there is no legal impediment to a federal recovery mechanism that simply requires all telephone subscribers to pay, on a per-line basis, for that portion of their *necessarily-incurred local telephone plant costs* that is assigned to the interstate jurisdiction.[164] Section 254(k) does not apply to the question of whether prices should be set through SLCs alone or through a combination of SLCs and PICCs.

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[159] *E.g.*, Smithville Comments at 5; NASUCA Comments at 20-22; Washington Commission Comments at 9-10; California Commission Comments at 11; Joint Consumer Commenters Reply at 3-5; New Jersey Div. Comments at 7-8; Michigan Commission Supp. Comments at 3; Montana Commission Supp. Comments at 3; Wisconsin Commission Supp. Comments at 5-7; Joint Board Supp. Comments at 9-10; Joint Consumer Commenters Supp. Comments at 4, 26, 37-38; NASUCA Supp. Comments at 6, 21-22.

[160] 47 U.S.C. § 254(k); *see* Implementation of Section 254(k) of the Communications Act of 1934, as Amended, 12 FCC Rcd 6415, 6419 (1997) (*Section 254(k) Order*).

[161] *See Southwestern Bell Telephone v. Federal Communications Commission*, 153 F.3d 523, 559 (8th Cir. 1998).

[162] *Section 254(k) Order*, 12 FCC Rcd at 6419-20.

[163] *See Southwestern Bell v. FCC*, 153 F.3d at 559.

[164] *See* CALLS Reply at 27; *see also NARUC v. FCC*, 737 F.2d at 1115.

Neither the PICC nor the CCL charge is legally compelled by section 254(k) or any other provision of law.

94. Indeed, these arguments have already been addressed and rejected by the United States Court of Appeals for the Eighth Circuit.[165] In *Southwestern Bell v. FCC*, the Texas Office of Public Utility Counsel argued, among other things, that the Commission's decision in the *Access Charge Reform Order* to increase the SLC cap for certain lines resulted in a "'free ride by the IXCs on the common line facilities'" and that loop costs were being shifted from competitive services to basic services, contrary to the intent of section 254(k) of the 1996 Act. Texas Counsel argued that as a result of section 254(k), the recovery of joint and common costs, such as NTS loop costs, must be borne mutually both by end users and by IXCs. Texas Counsel asserted that it was improper for the Commission to shift additional NTS loop cost recovery from the access rates LECs charge IXCs for interstate access onto the rates end users pay for certain telephone lines.[166] Texas Counsel contended that increasing the SLC cap imposed on end users allowed IXCs to evade their fair share of the common line costs.[167] Texas Counsel maintained that this approach violated section 254(k) "in that the existing proportion of NTS loop cost recovery by the IXCs through competitive services would be reduced through increases on end users for basic services."[168]

95. The Eighth Circuit upheld the Commission's increases to various LEC SLC caps, however, and found that "Texas Counsel's contention that increasing the SLC price ceiling violates the prohibition against using non-competitive services to subsidize competitive services [wa]s unpersuasive."[169] In doing so, the court reaffirmed the Commission's long standing view that the subscriber "causes" local loop costs, whether the subscriber uses the service for intrastate or interstate calls. These costs are, in any event, recovered from the end user, either through direct end-user charges or indirectly through higher rates or additional charges paid to IXCs. The court further affirmed the Commission's conclusion that it was appropriate and rational for the Commission to impose these costs on the end user. The court concluded as a result that increasing SLC caps on certain lines did not result in a windfall for IXCs.[170]

96. Similarly, the court in *Southwestern Bell* rejected the argument that increasing the SLC cap violates the second sentence of section 254(k) by causing services included in the definition of universal service to bear more than a reasonable share of the joint and common costs of facilities used to provide those services. The second provision of section 254(k)

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[165] *See Southwestern Bell v. FCC*, 153 F.3d at 559.

[166] *See Southwestern Bell v. FCC*, 153 F.3d at 559.

[167] *See Southwestern Bell v. FCC*, 153 F.3d at 559.

[168] *See Southwestern Bell v. FCC*, 153 F.3d at 558-59.

[169] *See Southwestern Bell v. FCC*, 153 F.3d at 559.

[170] *See Southwestern Bell v. FCC*, 153 F.3d at 558.

separates telecommunications services into those that are supported by universal service, and those that are not.[171] This provision empowers the Commission to establish rules to prevent LECs from overallocating to supported services the costs of facilities that are used to provide services in both categories. It places a continuing obligation on the Commission to ensure that the treatment of joint and common costs, such as corporate overheads, prescribed by our accounting, cost allocation, separations, and access charge rules will safeguard the availability of universal service.[172] Opponents argue that by eliminating the PICC and increasing the SLC cap, the Commission violates section 254(k) by allocating 100 per cent of the joint and common costs to the common line elements paid by the end user. The Commission, however, has complied with the requirements of section 254(k) by allocating joint and common costs to various interstate services, including those that are supported by universal service, such as common line and switching, and those that are not, such as special access services.[173] The Commission also has in place a comprehensive system of accounting and non-accounting safeguards designed to discourage carriers from misallocating the costs of non-regulated activities, and to ensure that ratepayers share in any efficiencies generated from joint use of the network by non-regulated activities.[174] None of the proposal's critics challenge these safeguards as insufficient or flawed, or our allocation as improper. Because the SLC is a method of recovering properly allocated loop costs, not an allocation of those costs between supported and unsupported services, section 254(k) is not implicated.[175]

97. Moreover, the SLC and PICC were established to recover loop costs for the same service – interexchange access. Interexchange access is a supported service as defined in the *Universal Service First Report and Order*.[176] Therefore, contrary to the arguments of opponents, moving the recovery of loop costs associated with interexchange access service from the PICC to the SLC is not a change in the allocation between supported and unsupported service.

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171 47 U.S.C. § 254(k); *see Southwestern Bell v. FCC*, 153 F.3d at 559.

172 *Section 254(k) Order*, 12 FCC Rcd at 6420.

173 *See, e.g.*, 47 C.F.R. §§ 69.401-414.

174 *See, e.g.*, Regulatory and Policy Problems Presented by the Interdependence of Computer and Communications Services and Facilities, Tentative Decision, 28 FCC 2d 291 (1970); Final Decision and Order, 28 FCC 2d 267 (1971), *aff'd sub. nom GTE Services Corp. v. FCC*, 474 F.2d 724 (2d Cir. 1973); *decision on remand*, 40 FCC 2d 293 (1973); Amendment of Section 64.702 of the Commission's Rules and Regulations, 77 FCC 2d 384 (1980), *recon.* 84 FCC 2d 50 (1980), *further recon.* 88 FCC 2d 512 (1981), *aff'd sub nom. Computer and Communications Industry Ass'n v. FCC*, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 461 U.S. 938 (1983); Policy and Rules Concerning Rates for Competitive Carrier Services and Facilities Authorizations Thereof, CC Docket No. 79-252, Fifth Report and Order, 98 FCC 2d 1191 (1984); Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, Amendment of Part 31, the Uniform System of Accounts for Class A and Class B Telephone Companies, CC Docket No. 86-111, Report and Order, 2 FCC Rcd 1298 (1987) (*Joint Cost Order*), *recon.* 2 FCC Rcd 6283 (1987), *further recon.* 3 FCC Rcd 6701 (1988), *aff'd sub nom. Southwestern Bell Corp. v. FCC*, 896 F.2d 1378 (D.C. Cir. 1990).

175 *See Southwestern Bell v. FCC*, 153 F.3d at 559.

176 *Universal Service First Report and Order*, 12 FCC Rcd at 8807.

98. We also reject the argument that elimination of the PICC is inconsistent with the *Line Sharing Order*.[177] The *Line Sharing Order* concluded that states should not permit incumbent LECs to charge more to competitive LECs for access to shared local loops than the amount of loop costs the incumbent LEC allocated to ADSL services when it established its interstate retail rates for those services.[178] To date, we are not aware of any incumbent LECs that have allocated any loop costs to ADSL services.

99. Many of the proposal's critics also erroneously argue that the consolidation of the SLC and PICC violates the requirements for reasonable recovery of shared costs as interpreted by *Smith v. Illinois Bell*.[179] We find no requirement anywhere that we are required to prescribe the recovery of properly allocated common line costs from IXCs rather than in the cost causative manner that we follow. In making their arguments, the opponents misinterpret and confuse the issues in *Smith v. Illinois Bell.* Indeed, their arguments have already been addressed and rejected in *NARUC v. FCC*. Specifically, in *NARUC v. FCC*, the D.C. Circuit held that *Smith v. Illinois Bell* dealt with jurisdiction and that a portion of the costs of local subscriber plant may be recovered only under the authority of a body with interstate regulatory powers.[180] The D.C. Circuit further held that *Smith v. Illinois* did not address the manner in which the Commission was to perform this task.[181] The court specifically found that *Smith v. Illinois Bell* did not compel the Commission to use a particular formula to recover costs allocated to its jurisdiction.[182] Rather, the Commission may properly order recovery, through charges imposed on telephone subscribers, of the portion of the local loop costs, that, in accordance with *Smith v. Illinois,* have been placed in the interstate jurisdiction.[183] Contrary to the arguments of many opponents, therefore, *Smith v. Illinois Bell* does not preclude our action today as the common line costs in question have been properly allocated by the Commission.

100. In this Order, we also permit price cap LECs to eliminate over time the distinction between primary and non-primary residential lines. Under the revised proposal, this distinction can be eliminated in most circumstances, but will remain for those subscribers where the average

177 NASUCA Supp. Comments at 7; Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket 98-147, Third Report and Order, 14 FCC Rcd 20912 (1999) (*Line Sharing Order*).

178 *Line Sharing Order*, 14 FCC Rcd at 20976.

179 NASUCA Comments at 19-22; Joint Consumer Commenters Comments at 16-18; NRTA/NTCA Comments at 9-10; *see also Smith v. Illinois Bell*, 282 U.S. 133.

180 *See NARUC v. FCC*, 737 F.3d at 1112.

181 *See NARUC v. FCC*, 737 F.3d at 1112.

182 *See NARUC v. FCC*, 737 F.3d at 1112; *see also Rural Telephone Coalition v. Federal Communications Commission*, 838 F.2d 1307, 1314 (D.C. Cir. 1988).

183 *See NARUC v. FCC*, 737 F.3d at 1114

CMT revenue exceeds the maximum proposed SLC cap for primary residential lines.[184] This will go a long way to eliminate the consumer confusion that now exists relating to this distinction. Although the primary/non-primary line distinction has served a role during the transitional regulatory process we established, we agree that eliminating this distinction to the extent that we can will further simplify the current rate structure and eliminate the costs associated with administering this distinction, which are ultimately borne by consumers.

101. We also eliminate the Marketing Basket in this Order. We established this basket in our *Access Charge Reform Order* to prevent price cap LECs from recovering retail marketing expenses from carrier access services, and to ensure that the recovery of these expenses was directed at multi-line users rather than primary residential and single-line business users. Under current Commission rules, the marketing expenses allocated to the Marketing Basket are recovered through common line charges.[185] Under the CALLS Proposal, these marketing expenses are included in the total revenue a price cap LEC is permitted to recover as Price Cap CMT Revenue.[186]

102. We adopt the CALLS Proposal with respect to its treatment of marketing expenses. In doing so, we expand the common line elements from which these expenses can be recovered to include the primary residential and single-line business SLC. In the *Access Charge Reform Order* we prevented the recovery of marketing expenses from primary residential and single-line business SLCs and PICCs because we believed that price cap LEC retail marketing may have focused more on the sale of optional vertical features such as call waiting and caller ID, and on features and services designed for business customers.[187] At the time, there was insufficient evidence in the record demonstrating that price cap LECs marketed to primary residential and single-line business subscribers. As a result, we determined that the most efficient and cost-causative method for recovering these expenses was from the end users to whom the price cap LECs' marketing was directed – multi-line business and non-primary residential line end users.[188] We therefore limited recovery of these expenses to the non-primary residential and multi-line business common line elements in the common line basket.[189] In addition, by proceeding in this manner, we avoided potential universal service concerns relating to increasing the primary residential SLC.[190]

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[184] We estimate that by July 2004, the distinction can be eliminated for approximately two-thirds of all non-primary lines.

[185] 47 C.F.R. § 69.156. Marketing expenses can be recovered from multi-line business and non-primary residential SLCs, then multi-line business and non-primary residential PICCs, then CCL charges.

[186] Modified Proposal at § 2.1.1.1.

[187] *See Access Charge Reform Order*, 12 FCC Rcd at 16121.

[188] *See Access Charge Reform Order*, 12 FCC Rcd at 16122.

[189] *See Access Charge Reform Order*, 12 FCC Rcd at 16122.

[190] *See Access Charge Reform Order*, 12 FCC Rcd at 16122.

103. Since the adoption of the *Access Charge Reform Order*, evidence has developed which demonstrates that price cap LECs incur marketing expenses relating to primary residential and single-line business services as well.[191] Consequently, consistent with the cost-causative approach we adhered to in the *Access Charge Reform Order*, we now permit the recovery of these expenses from all elements in the common line basket, including the primary residential and single-line business SLC.

104. This change will have little, if any, impact on subscribers, given the existence of the SLC caps, the elimination of the primary and non-primary residential PICCs, and the distribution of these expenses across a larger subscriber base. In light of the integrated nature of the CALLS Proposal and the considerable benefits resulting from the simplification of and overall rate reductions in the common line basket, the reductions to the switched access usage charges, and the implementation of the interstate access universal service support mechanism, our prior universal service concerns relating to increasing the primary residential and single-line business SLC cap above $3.50 are allayed. The overall effect of the proposal is to lower costs for consumers. Eliminating this basket also promotes efficiency and streamlines the process by which a participating price cap LEC recovers its marketing expenses, while at the same time reducing the administrative costs associated with maintaining and managing this basket.

b. Multi-line Business SLC and PICC

105. We also cap the multi-line business PICC at $4.31 and reduce it over time until it is eliminated as provided for in the CALLS Proposal. Under the CALLS Proposal, the multi-line business PICC in virtually all areas is eliminated over the next several years or can be eliminated through voluntary reductions in order to permit deaveraging. Several critics of this aspect of the proposal assert that the multi-line business PICC and SLC should be consolidated, eliminated or reduced further, and that it should be billed directly from the price cap LECs to subscribers to avoid any mark-up by IXCs.[192] We believe for the following reasons, however, that the restructuring of the multi-line business PICC proposed in the CALLS Proposal is the better approach at this time.

106. The multi-line business PICC was established to recover revenue that would otherwise be recoverable through charges on residential and single-line business lines, and not to recover the cost of serving multi-line business lines. For most price cap LECs, a SLC of $9.00 or less fully recovers average per line permitted revenues, and the multi-line business PICC represents a subsidy running from business long-distance users to residential users. Under current rules, this subsidy is to be phased out over time pursuant to the *Access Charge Reform Order* as price cap LECs are eventually able to recover their full per-line common line revenues

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[191] *See* Letter from Anthony M. Alessi, Director, Federal Relations, Ameritech, to William F. Caton, Acting Secretary, Federal Communications Commission, September 11, 1997, CC Docket No. 96-262; Letter from Frank G. Kennedy, Director, Legal and Regulatory Affairs, United States Telephone Association, to William F. Caton, Acting Secretary, Federal Communications Commission, September 29, 1997, CC Docket No. 96-262.

[192] GSA Comments at 7-9; Pathfinder Comments at 5; Ad Hoc Supp. Comments at 8-10; U S WEST Supp. Comments at 5, 10-12; TRA Supp. Comments at 2, 4-7; MCI Supp. Comments at 29.

from each line through the SLC and PICC. Under the CALLS Proposal, this subsidy also is to be phased out over time although not as quickly as it would be under our current rules. Because of rate averaging by IXCs, the overall effect of this subsidy mechanism is spread out over a large number of multi-line business subscribers which permits this subsidy to remain sustainable until we are able to reevaluate this rate structure at the end of the five year period covered by the CALLS Proposal. At the time the multi-line business PICC was established, the Commission determined that it was a reasonable measure to avoid an adverse impact on universal service and residential customers. Maintaining this transitional mechanism continues to be a reasonable measure to avoid an adverse impact on universal service and residential customers, and is the better approach in establishing a more efficient interstate access charge rate structure consistent with our long-term universal service goals in a competitive local exchange environment.

107. We reject the opponents' arguments that the multi-line business PICC should be consolidated with the multi-line business SLC or recovered differently,[193] because doing so would exaggerate the difference between business end-user charges in high cost and low cost areas and impact rate comparability between urban and rural areas. In addition, combining the multi-line business SLC and multi-line business PICC would place price cap LECs at a competitive disadvantage with competitive LECs. The multi-line business SLC is intended to recover a price cap LEC's interstate portion of local loop costs for multi-line business services, while the multi-line business PICC is intended to subsidize the price cap LEC's interstate portion of local loop costs for residential service. Competitive LECs are not regulated by the Commission and are not restricted in the same manner as price cap LECs in how they recover their costs. A combined SLC and PICC, therefore, could exceed a competitive LEC's rate that recovers its loop costs, even where the SLC alone would be less than a competitive LEC's loop cost recovery mechanism. Because the multi-line business PICC is a subsidy, this could encourage inefficient entry by competitors.

108. We also recognize, however, allegations that IXCs mark-up the multi-line business PICC well above the average rate. These commenters argue that merging the multi-line business SLC and PICC would make it subject to competitive pressures, forcing price cap LECs to lower their multi-line PICC charges to stay competitive with competitive LECs.[194] We are troubled by these mark-up allegations and remind carriers of our statutory authority to investigate any charges that appear unreasonable or unlawful.[195] We will not hesitate to take action on a case-by-case basis against carriers that impose unjust or unreasonable line item charges.[196] We are hopeful, however, that the mandatory detariffing of IXC charges that recently took effect will increase the competitive pressure on IXCs to bring their multi-line business PICC pass-through closer to the average multi-line business PICC.

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[193] Ad Hoc Supp. Comments at 8-9; TRA Supp. Comments at 8.

[194] Ad Hoc Supp. Comments at 8-10.

[195] *See* 47 U.S.C. §§ 204-205. *See also* Interexchange Carrier End-User Charges to Recover Universal Service Contributions, CC Docket No. 99-324, Suspension Order, 14 FCC Rcd 20032.

[196] *See* 47 U.S.C. § 201(b). *See also Truth-in-Billing Order*.

109. Although we will not merge the multi-line business SLC and PICC at this juncture, we will revisit this issue during the cost review proceeding scheduled to occur before the residential and single-line business SLC cap increases above $5.00. At that time, we will be better able to evaluate the long-term impact of the multi-line business PICC and competition in the IXC market.

110. In addition, the timeframe for eliminating the multi-line business PICC for most subscribers under the CALLS Proposal generally is consistent with the current timeframe under which the multi-line business PICC would be eliminated for most subscribers. For example, we estimate that by July 2004, the multi-line business PICC will be eliminated under current rules for all RBOCs whereas it will be eliminated under the proposal for all RBOCs except for BellSouth, which would have a multi-line business PICC at that time of approximately $0.20 per line.[197] We also estimate that the multi-line business PICC for GTE, Sprint and some other price cap LECs will remain in some areas where it might otherwise have been eliminated under existing rules. Multi-line business PICCs also can be immediately eliminated through voluntary reductions in order to deaverage SLCs as described below. Consequently, we reject the suggestion that the proposal should be modified to accelerate the elimination of the multi-line business PICC.[198]

111. We recognize that the continued existence of the multi-line business PICC in some areas may constitute an implicit non-portable subsidy.[199] As the Eighth Circuit held in reviewing our *Access Charge Reform Order*, however, this does not violate section 254.[200] In our *Access Charge Reform Order*, we created the multi-line business PICC as an interim mechanism for price cap LECs to recover permitted common line revenues they were otherwise unable to recover because of the SLC and PICC caps on primary residential and single-line business lines.[201] Although our action today affects the cap at which the multi-line business PICC can be assessed, it does not alter the interim nature of this mechanism nor the underlying reason why we established it. The Eighth Circuit upheld this rate structure as a reasonable solution to the "implicit tension between the [Commission's] goals of moving toward cost-based rates and protecting universal service."[202] More importantly, the CALLS Proposal phases out the multi-line business PICC for most customers until it is eliminated.[203] At the end of the five year term, we will examine to what extent competition and voluntary reductions have further eliminated it,

[197] Our estimates are based upon applying our current rules and the CALLS Proposal's proposed rules to publicly available data.

[198] MCI Supp. Comments at 29.

[199] *See, e.g.*, Ad Hoc Supp. Reply at 5.

[200] *See Southwestern Bell v. FCC*, 153 F.3d at 537-38.

[201] *See Access Charge Reform Order*, 12 FCC Rcd at 16022.

[202] *See Southwestern Bell v. FCC*, 153 F.3d at 538.

[203] *See* Modified Proposal at § 2.1.6.

and to the extent that they have not we will consider additional measures to address those areas. Although this proposal does not eliminate transitional higher rates for business users, it generally maintains the rate structure we established in our *Access Charge Reform Order* for the reasons stated therein, of redistributing recovery from a very few high-volume users to business users in general.[204] The CALLS Proposal will continue to permit the charges to be sustainable during our transition to a more economically rational approach to access charges and universal service.[205] We find that this aspect of the proposal is a reasonable measure in moving toward cost-based rates and protecting universal service.

112. We agree that freezing and eventually reducing the current combined level of multi-line business PICCs and SLCs further reduces the distortions in the current rate structure. This in turn reduces the likelihood that competitive LECs and incumbent LECs will target their investments towards urban business customers due to artificial regulatory incentives, and to a greater extent than would be required by economic efficiency. Consequently, we expect a greater proportion of competitive LEC investment in rural and residential urban areas as a result of these actions.[206]

c. SLC Deaveraging

113. We also modify our rules today to permit deaveraging of the SLC in the limited manner outlined in the CALLS Proposal. Granting price cap LECs more flexibility to deaverage these rates enhances the efficiency of the local telephone market by allowing prices to be tailored more easily and accurately to reflect costs and, therefore, promotes competition in both urban and rural areas. In addition, deaveraging SLCs will have the effect of reducing implicit subsidies that otherwise exist under the current rate structure.

114. Geographic deaveraging refers to charging different rates in different zones to reflect the relative costs of providing service in each zone. Since 1992, the Commission has permitted incumbent LECs to deaverage certain rates by geographic zone because of the concern that averaged rates might create a pricing umbrella for competitors that would deprive subscribers of the benefits of more vigorous competition.[207] We also have ordered the

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[204] *See Access Charge Reform Order*, 12 FCC Rcd at 16023-24.

[205] *See Access Charge Reform Order*, 12 FCC Rcd at 16023-24.

[206] *See* Robert W. Crandall and Jeffrey H. Rohlfs, The Economic Case for the CALLS Proposal, December 3, 1999.

[207] Expanded Interconnection with Local Telephone Company Facilities; Amendment of the Part 69 Allocation of General Support Facility Costs, CC Docket Nos. 91-141 and 92-333, Report and Order, 7 FCC Rcd 7369, 7454 (1992) (*Special Access Expanded Interconnection Order*), *vacated in part and remanded, Bell Atlantic Tel. Cos. v. FCC*, 24 F.3d 1441 (D.C. Cir 1994); Switched Transport Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Second Report and Order and Third Notice of Proposed Rulemaking, 8 FCC Rcd 7374, 7425-32 (1993) (*Switched Transport Expanded Interconnection Order*).

deaveraging of the rates for interconnection and unbundled elements,[208] and permitted deaveraging of rates for trunking services as well.[209] In doing so, we found that deaveraging reduces implicit support inherent in some rates and helps promote competition in both low-cost and high-cost areas whereas averaging across large geographic areas may distort the operation of markets in high-cost areas because it requires incumbent LECs to offer services in those areas at prices substantially lower than their costs of providing services.[210] We found that deaveraged rates more closely reflect the actual cost of providing service, which promotes competition and efficiency by allowing a LEC to compete for subscribers when it is the lowest cost service provider, and by removing support flows to the LEC's higher-cost services.[211] Prices that are below cost reduce the incentives for entry by firms that could provide the services as efficiently, or more efficiently, than the incumbent LEC.[212] Similarly, discrepancies between price and cost may create incentives for carriers to enter low-cost areas even if their cost of providing service is actually higher than that of the incumbent LEC.[213] These findings and conclusions clearly support the proposed limited deaveraging of SLCs.

115. We agree with the CALLS proponents that permitting deaveraging of the SLC under the proposed limited conditions and safeguards substantially reduces the implicit support of rural rates by urban ratepayers, and is a critical step in the development of increased competition in rural areas and the preservation of universal service.[214] Integrating SLC deaveraging with explicit universal service support and deaveraged UNE loop rates strengthens both rural and urban competition, and ensures affordable rates.[215] We are satisfied that by capping SLCs at affordable levels and limiting SLC deaveraging to a maximum of four zones as proposed,[216] we satisfy the statutory principle that rates in rural, insular, and high cost areas

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208 Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, 11 FCC Rcd 15499 (1996); *Iowa Utilities Board v. FCC*, 96 F. 3d 1116 (8th Cir. 1996) (*per curiam*); *see also Iowa Utilities Board v. FCC*, 109 F.3d 418 (8th Cir. 1996); *Iowa Utilities Board v. FCC*, 120 F.3d 753 (8th Cir. 1997), *rev'd in part and aff'd in part*, *AT&T v. Iowa Utilities Board*, 119 S.Ct. 721 (1999), *on remand* Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 14 FCC Rcd 8300 (1999).

209 *Pricing Flexibility Order*, 14 FCC Rcd at 14249-51.

210 *Access Charge Reform Order*, 11 FCC Rcd at 21434; *Pricing Flexibility Order*, 14 FCC Rcd at 14253-54.

211 *Special Access Expanded Interconnection Order*, 7 FCC Rcd at 7454.

212 *Access Charge Reform Order*, 11 FCC Rcd at 21434; *Pricing Flexibility Order*, 14 FCC Rcd at 14253-54.

213 *Access Charge Reform Order*, 11 FCC Rcd at 21434; *Pricing Flexibility Order*, 14 FCC Rcd at 14253-54.

214 *CALLS NPRM*, 14 FCC Rcd at 16969-70; *see also, e.g.*, ALTS Comments at 7-8; USTA Comments at 2; Western Wireless Comments at 5; Time-Warner Comments at 2; Intermedia Reply at 4-5; GTE Reply at 16; U S WEST Comments at 2-6 (safeguards should be simplified); USTA Supp. Comments at 5; Global Crossing Supp. Comments at 3-4..

215 *CALLS NPRM*, 14 FCC Rcd at 16969-70.

216 *CALLS NPRM*, 14 FCC Rcd at 16972.

remain "reasonably comparable" to those in urban areas.[217] Indeed, this action is consistent with our prior findings that three zones are presumptively sufficient to reflect geographic cost differences in setting rates for interconnection and unbundled elements.[218] We also are satisfied that the interstate access universal service support mechanism established under CALLS is designed to ensure that subscribers in all areas of the country pay rates that are affordable and reasonably comparable.

116. Opponents of deaveraging SLCs contend that doing so complicates the administration of the SLC and potentially violates the section 254(b) principle that rates should be affordable and reasonably comparable between rural and urban areas.[219] Opponents also argue that deaveraging makes it difficult for long-distance companies to maintain geographically averaged rates as required by section 254(g). They argue that section 254(g) is intended to incorporate the policies of geographic rate averaging and rate integration of interexchange services in order to ensure that all subscribers in rural and high cost areas are able to continue to receive both intrastate and interstate interexchange services at rates no higher than those paid by urban subscribers.[220] In their view, permitting SLC deaveraging evades the 1996 Act's geographic averaging mandate by shifting the interstate loop costs out of the IXCs' long-distance rates and into deaveraged SLCs to be collected from the price cap LEC's customers, rather than as averaged PICC pass-through charges imposed on the IXCs' presubscribed customers.[221]

117. Opponents further argue that section 254(g) does not provide any exception for interstate interexchange access service provided to end users on a flat-rated basis. In their view, once the SLC is deaveraged, no rural end user in price cap LECs' service areas will be able to receive interstate interexchange services without paying more than an urban user because of the higher access costs in rural areas.[222] In support of their position, they point out that the Commission previously recognized in the *Access Charge Reform Order* that letting the IXCs pass the PICCs through to their customers on a deaveraged basis might conflict with section 254(g) and "create a substantial risk that many subscribers in rural and high-cost areas may be

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[217] 47 U.S.C. § 254(b)(3).

[218] Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, 15882 (1996) (*Local Competition Order*). States could establish more than three zones where cost differences in geographic regions are such that it finds that additional zones are needed to adequately reflect the costs of providing service. *Local Competition Order*, 11 FCC Rcd at 15882.

[219] Joint Consumer Commenters Supp. Comments at 40; NRTA/NTCA Supp. Reply at 9; Joint Board Supp. Comments at 12. In response to the *Pricing Flexibility Order* FNPRM, many commenters also argue that common line costs should not be deaveraged prior to certain prerequisites having been met in a study area.

[220] NRTA/NTCA Comments at 5; Joint Board Supp. Comments at 13.

[221] NRTA/NTCA Comments at 9.

[222] NRTA/NTCA Comments at 6.

charged significantly more than subscribers in other areas."[223] They argue that the Commission's same analysis should prevail over any effort to achieve the deaveraging indirectly by manipulation of the cost recovery responsibility, the name of the charge, or the identity of who must pay for it.[224]

118. We are unpersuaded by the arguments that section 254(g) applies to SLCs charged by incumbent LECs. Moreover, we disagree with the arguments that (1) the SLC, as set forth under the CALLS Proposal, represents a "rate" charged by an interexchange service provider within the meaning of section 254(g) because IXCs benefit from the SLC payment,[225] and (2) the SLC is a "rate" of a subscriber's LEC which remains a charge for interstate interexchange service because it facilitates access to the service.[226] The statutory rate integration requirement applies on its face only to rates charged by providers of "interexchange telecommunications services to subscribers," not to providers of interexchange access service.[227] SLCs, which are charged by LECs, do not fall within the statutory standard.[228] As described above, the SLC is a LEC charge designed to recover the cost of the interstate portion of facilities that subscribers use jointly to connect to the telephone network for the purpose of making and receiving both local and interexchange calls. Therefore, the SLC is not a "rate" charged by IXCs to subscribers within the meaning of Section 254(g).

119. Moreover, we believe that interpreting this provision in the manner suggested by these commenters goes beyond what Congress intended when it incorporated geographic rate averaging and integration policies into section 254(g). These policies apply only to interexchange service, not to exchange access whether paid by the carrier or the end user.[229] SLCs, which are charged by LECs, do not fall within the statutory standard.[230] Indeed, our view is consistent with the current system wherein multi-line business SLCs vary from one price cap LEC to another and, even within a single LEC or LEC holding company, from study area to study area, with a low of \$3.77 to a high of \$9.20.[231] More specifically, Bell Atlantic has for many years assessed a residential SLC in the District of Columbia that is lower than the residential SLCs it charges in some other states because of the lower average cost in the District

[223] NRTA/NCTA Comments at 6-7; *see also Access Charge Reform Order*, 12 FCC Rcd at 16022.

[224] NRTA/NTCA Comments at 6-7; New Jersey Div. Comments at 16-18.

[225] Vermont Dept. Reply at 16-17.

[226] Vermont Dept. Reply at 17.

[227] 47 U.S.C. 254(g); *see* CALLS Reply at 28; NADO Reply at 5.

[228] NADO Reply at 5.

[229] CALLS Reply at 28; NADO Reply at 5.

[230] NADO Reply at 5.

[231] *See, e.g.*, Bell Atlantic Tariff No. 1, Section 4.1.7 and Bell Atlantic Tariff No. 11, Section 31.4.1.

of Columbia. These SLCs varied before the enactment of the 1996 Act and the adoption of the *Access Charge Reform Order*.[232] Despite this occurrence, Congress did not suggest that section 254(g) was applicable to SLCs, nor has there ever been any suggestion that this variation in price cap LEC SLC rates from high cost areas to low cost areas violated section 254(g), or that Section 254(g) was intended to address that situation.

120. In addition, the CALLS Proposal, contrary to some arguments, does not shift IXC costs to LEC customers. Allowing the recovery of common line costs through a single end-user charge billed directly from a price cap LEC to an end user does not "evade" section 254(g) by shifting the interstate loop costs out of IXCs' long distance rates and into deaveraged SLCs. As we have maintained, loop costs are incurred by LECs, not IXCs. The District of Columbia Circuit in *NARUC v. FCC* upheld our finding that "[l]ocal telephone plant costs are real; they are necessarily incurred for each subscriber by virtue of that subscriber's interconnection into the local network, and they must be recovered regardless of how many or how few interstate calls (or local calls for that matter) a subscriber makes."[233] Therefore, requiring price cap LECs to bill their own customers for a cost they are in fact required by law to incur - because use of the loop is a mandatory component of universal service – is not an end-run around the statute. The proposal does not shift IXC costs to price cap LEC customers. The fact that CCL charges and the recently created PICC have resulted in some of these costs being passed on to IXCs (and subsequently recovered through end-user pass-through charges) does not forever transform loop costs into an IXC cost.[234] These costs are, in fact, LEC costs, regardless whether they are recovered directly from end users or recovered indirectly through IXC payments that are then passed onto end users.

121. In addition, we are unpersuaded by the arguments that our previous decision not to forbear from applying section 254(g) to the recovery of IXC costs through the PICC pass-through charges precludes us from permitting the deaveraging of SLCs by LECs.[235] Our decision at that time was in response to some IXCs' requests for the Commission to forbear from applying section 254(g) to the recovery of their PICC costs through charges to end users.[236] At that time, the IXCs offered nothing in support of their request other than that the action was necessary in response to LECs' recovery of NTS common line costs through deaveraged rates assessed on IXCs.[237] We concluded that they failed to demonstrate in the record that they met the forbearance test set forth in Section 10(a) of the 1996 Act, and denied their request.[238] That finding is

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232 Under the prior system, these SLCs were capped at $6.00.

233 *See NARUC v. FCC*, 737 F.2d at 1113-14.

234 *See* CALLS Reply at 28-29.

235 NRTA/NCTA Comments at 6-7; New Jersey Div. Comments at 16-18; *see also Access Charge Reform Order*, 12 FCC Rcd at 16022.

236 *See Access Charge Reform Order*, 12 FCC Rcd at 16021-22.

237 *See Access Charge Reform Order*, 12 FCC Rcd at 16022.

irrelevant to a determination that a charge not covered by section 254(g) should be allowed to be deaveraged.

122. We also find no basis in this record to conclude that interexchange rates under the CALLS Proposal would be higher for rural than urban customers. Indeed, we believe that eliminating the geographic disparity of the PICC will make IXC costs more uniform, and thus make complying with section 254(g) less difficult for IXCs.[239] For example, price cap LEC PICC assessments range from $0 to $4.31, resulting in geographic disparity for IXCs which recover the PICC through charges to end users on an averaged basis, even in areas where PICCs are not assessed on them.

123. We also are unpersuaded by the arguments of some opponents that the SLC deaveraging provisions of the CALLS Proposal conflict with the reasonable rate comparability principle of section 254(b)(3) of the 1996 Act.[240] On the contrary, the CALLS Proposal's SLC deaveraging provisions are consistent with our interpretation of section 254(b)(3). As we concluded in the *Universal Service Seventh Report and Order,* the "reasonably comparable" rate provisions of section 254(b)(3) were intended as a national, as opposed to a state-by-state, comparison.[241] This standard refers to "a fair range of urban/rural rates both within a state's borders, and among states nationwide."[242] This does not mean that rate levels in all states, or in every area of every state, must be the same.[243] As the local exchange market becomes more

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[238] 47 USC § 10(a) states

> [T]he Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or telecommunications services, in any or some of its or their geographic markets, if the Commission determines that –
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> (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;
>
> (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
>
> (3) forbearance from applying such provision or regulation is consistent with the public interest.

47 U.S.C. § 10 (a). The Commission concluded that the information in the record at the time did not demonstrate that it was required by section 10(a) of the 1996 Act to forbear from applying section 254(g) as it relates to the manner in which IXCs recover their costs. *See Access Charge Reform Order*, 12 FCC Rcd at 16022.

[239] CALLS Reply at 29; Smithfield Comments at 2.

[240] NRTA/NTCA Comments at 11; Florida Commission Comments at 6-8; Vermont Dept. Reply at 14-15.

[241] *Universal Service Seventh Report and Order*, 14 FCC Rcd at 8094.

[242] *Universal Service Seventh Report and Order*, 14 FCC Rcd at 8092.

[243] *Universal Service Seventh Report and Order*, 14 FCC Rcd at 8092.

competitive, we believe that it would be unreasonable to expect rate levels not to vary to reflect the varying costs of serving different areas.[244] Therefore, the goal of maintaining a "fair range" of rates means that support levels must be sufficient to prevent pressure from high costs in certain areas and the development of competition from causing unreasonable increases in rates in the high cost areas above affordable levels.[245]

124. Section 254(b)(3) permits the use of federal support to enable reasonable rate comparability among states. The approach for enabling rate comparability which we previously adopted relies not on a national urban rate, but rather on a methodology that ensures that no state will face per-line costs that substantially exceed the costs faced by other states, taking into account the individual state's ability to support its own universal service needs. In this way, we seek to ensure that every state has at its disposal the means to achieve reasonable comparability of rates in that state.[246]

125. The CALLS Proposal is consistent with our interpretation of section 254(b)(3) and satisfies the requirements of the statute. It protects high-cost subscribers by providing that no SLC, whether averaged or deaveraged, may exceed the overall proposed SLC caps. Although prices will begin to reflect geographic variations in the forward-looking cost of providing service, newly explicit universal service support will protect rural subscribers against substantial rate increases. This approach is consistent with prior actions we have taken in furtherance of our universal service goals. For example, we previously capped SLC adjustments as a means of preventing end users in high-cost areas from paying SLCs that are significantly higher than in other parts of the country in order to ensure that all subscribers receive affordable rates that are comparable in different parts of the nation.[247] The CALLS Proposal's SLC cap is consistent with this approach, and ensures that end users in high-cost areas do not pay SLCs that are significantly higher than in low-cost areas.

126. We also believe that the Lifeline and Universal Service Fund aspects of the CALLS Proposal address to some extent concerns about potential rate increases to high-cost customers as a result of the geographic deaveraging aspects of the proposal.[248] Under the CALLS Proposal, Lifeline support will be increased so that all of the increased SLC is waived for Lifeline customers, with carriers reimbursed from the Universal Service Fund. Although Lifeline customers today pay no SLC, they must pay IXC-billed PICC charges, unless the IXC voluntarily waives that fee. The CALLS Proposal therefore benefits Lifeline customers by eliminating the PICCs and by ensuring that their fixed monthly charges do not increase in the future.

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[244] *Universal Service Seventh Report and Order*, 14 FCC Rcd at 8092.

[245] *Universal Service Seventh Report and Order*, 14 FCC Rcd at 8092.

[246] *Universal Service Seventh Report and Order*, 14 FCC Rcd at 8094.

[247] *Access Charge Reform Order*, 12 FCC Rcd at 16013.

[248] *See* Section IV. C. *infra*.

127. We disagree with the argument that deaveraged UNEs should be the sole trigger for deaveraging, and that the remaining proposed safeguards should be eliminated.[249] As in the case of the trunking basket and the deaveraging provisions in our *Pricing Flexibility Order*, the proposed safeguards generally reflect minimum revenue requirements for pricing zones and limits on price increases that are simple and easily verified. These limitations also generally are consistent with the comments filed by some CALLS opponents on this issue in response to the Further Notice of Proposed Rulemaking in the *Pricing Flexibility Order*.[250] We find therefore, that the public interest benefits associated with maintaining the proposed safeguards outweigh the benefits that might accrue from deaveraging occurring sooner than what might otherwise occur without these simple and easily verified safeguards. The proposal provides an incentive to LECs to deaverage voluntarily other than through offset free from the limitations of the proposed safeguards. The proposed safeguards ensure that the deaveraging of SLCs maintains affordable rural rates while developing competition and preserving universal service. Not permitting deaveraging unless a state has created geographically deaveraged UNE rates for loops ensures that deaveraging will not inadvertently hamper UNE-based entry or LEC competitive response.[251]

128. There is no cost causative way to deaverage multi-line business PICCs and CCL charges because they are subsidies. Requiring multi-line business PICCs and CCL charges to be eliminated before permitting SLC deaveraging helps ensure that the burdens of implicit support are spread evenly. To the extent that implicit support is included in the multi-line business SLC rates above what results from geographic averaging, allowing geographic deaveraging of the multi-line business SLC before the multi-line business PICC and CCL charges are eliminated would allow carriers to deaverage that implicit support and impose a greater burden on those multi-line business customers with fewer competitive options. By the time the multi-line business PICC and CCL charges are eliminated, however, implicit subsidies in the multi-line business SLC other than those resulting from geographic averaging should be reduced, and geographic deaveraging of the multi-line business SLC to reduce the subsidies resulting from averaging is appropriate. Also, by requiring that the multi-line business SLC not be lower than the non-primary residential SLC, or the non-primary residential SLC not be lower than the primary residential and single-line business SLC, the CALLS Proposal ensures that all consumers in low cost areas share the benefits of SLC deaveraging.[252]

[249] U S WEST Supp. Comments at 12-13.

[250] *See* U S West Comments, CC Docket No. 96-262 at 3-5 (Oct. 29, 1999).

[251] *CALLS NPRM*, 14 FCC Rcd at 16971.

[252] *CALLS NPRM*, 14 FCC Rcd at 16971.

B. Local Switching, Trunking, and Special Access Baskets

1. Background

a. Rate Structure

129. The Commission's long-standing policy is to require, to the extent possible, rate structures to reflect the manner in which carriers incur costs. Inefficient rate structures lead to inefficient and undesirable economic behavior, and create an implicit subsidy between high-volume users and low-volume users.[253] For example, a rate structure that recovers non-traffic sensitive costs through traffic sensitive access rates increases the per-minute rates paid by IXCs and long-distance companies, thereby artificially suppressing demand for interstate long-distance services, and requiring high-volume customers to pay charges in excess of the costs of serving them. Meanwhile, low-volume customers pay rates that are less than the cost of the dedicated equipment.[254]

130. To recover the costs of providing interstate access services, incumbent LECs charge IXCs and end users for access services in accordance with our Part 69 access charge rules.[255] Part 69 establishes two basic categories of access services: special access services and switched access services. Special access services generally employ dedicated facilities that run directly between the end user and the IXC's point of presence (POP), or between a LEC's switch and an IXC's POP.[256] Switched access services, on the other hand, use local exchange switches to route originating and terminating interstate toll calls. The Commission has not prescribed specific rate elements for special access services in Part 69.[257] For switched access, Part 69 establishes specific elements and a mandatory rate structure for each element.[258]

131. Interoffice transmission services, known as transport services, carry interstate switched access traffic between an IXC's POP and the end office that serves the end-user customer. Incumbent LEC transmission facilities that carry switched interstate traffic between an IXC's POP and the incumbent LEC end office serving the POP (the serving wire center (SWC)) are known as entrance facilities.[259] Incumbent LECs currently offer two types of

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[253] *Access Charge Reform Order*, 12 FCC Rcd at 15995-96, 15998; Investigation of Interstate Access Tariff Non-Recurring Charges, CC Docket No. 85-166, Memorandum Opinion and Order, 2 FCC Rcd 3498, 3501-02 (1987).

[254] *See Access Charge Reform Order*, 12 FCC Rcd at 15996, 16008.

[255] 47 C.F.R. Part 69.

[256] A POP is the physical point where an IXC connects its network with the LEC network.

[257] *Access Charge Reform*, CC Docket No. 96-262, Notice of Proposed Rulemaking, 11 FCC Rcd 21354, 21367 (1996) (*Access Charge Reform NPRM*).

[258] *Access Charge Reform NPRM*, 11 FCC Rcd at 21367.

[259] *See* 47 C.F.R. § 69.110 (requiring LECs to impose flat-rated charges on IXCs to recover the costs of entrance facilities).